



Montana Legislative History

Chapter: 40 Session L: 1997 Checklist of Bill History

Bill Number: 1 House / Senate

History and Final Status Sheet	☒
Introduced Bill	☒
Fiscal Note	☒
Third Reading Bill	☒
Final Version of Bill	☒

House

Committee:

Natural Resources

Hearing Date(s):

Feb. 3, 1997

Feb. 7, 1997

Committee Report:

Senate

Committee:

Natural Resources

Hearing Date(s):

Jan. 8, 1997

Jan. 13, 1997

Committee Report:

Conference Committee

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by: Sonia Gavin

Date: 11-6-23

Notes:

SENATE BILL NO. 1

INTRODUCED BY GROSFIELD, KNOX

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING NITRATE WATER QUALITY MEASUREMENTS; AMENDING SECTION 75-5-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-5-301, MCA, is amended to read:

"75-5-301. Classification and standards for state waters. Consistent with the provisions of 80-15-201 and this chapter, the board shall:

(1) establish the classification of all state waters in accordance with their present and future most beneficial uses, creating an appropriate classification for streams that, due to sporadic flow, do not support an aquatic ecosystem that includes salmonid or nonsalmonid fish;

(2) (a) formulate and adopt standards of water quality, giving consideration to the economics of waste treatment and prevention. When rules are adopted regarding temporary standards, they must conform with the requirements of 75-5-312.

(b) Standards adopted by the board must meet the following requirements:

(i) for carcinogens, the water quality standard for protection of human health must be the value associated with an excess lifetime cancer risk level, assuming continuous lifetime exposure, not to exceed 1×10^{-3} in the case of arsenic and 1×10^{-5} for other carcinogens. However, if a standard established at a risk level of 1×10^{-3} for arsenic or 1×10^{-5} for other carcinogens violates the maximum contaminant level obtained from 40 CFR, part 141, then the maximum contaminant level must be adopted as the standard for that carcinogen.

(ii) standards for the protection of aquatic life do not apply to ground water.

(3) review, from time to time at intervals of not more than 3 years and, to the extent permitted by this chapter, revise established classifications of waters and adopted standards of water quality;

(4) adopt rules governing the granting of mixing zones, requiring that mixing zones granted by the department be specifically identified and requiring that mixing zones have:

- 1 (a) the smallest practicable size;
- 2 (b) a minimum practicable effect on water uses; and
- 3 (c) definable boundaries;
- 4 (5) adopt rules implementing the nondegradation policy established in 75-5-303, including but not
- 5 limited to rules that:
- 6 (a) provide a procedure for department review and authorization of degradation;
- 7 (b) establish criteria for the following:
- 8 (i) determining important economic or social development; and
- 9 (ii) weighing the social and economic importance to the public of allowing the proposed project
- 10 against the cost to society associated with a loss of water quality;
- 11 (c) establish criteria for determining whether a proposed activity or class of activities, in addition
- 12 to those activities identified in 75-5-317, will result in nonsignificant changes in water quality for any
- 13 parameter in order that those activities are not required to undergo review under 75-5-303(3). These criteria
- 14 must be established in a manner that generally:
- 15 (i) equates significance with the potential for harm to human health or the environment;
- 16 (ii) considers both the quantity and the strength of the pollutant;
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- 29 (iv) 7.5 milligrams per liter for domestic sewage effluent discharged from a conventional septic
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1 liter primarily from sources other than human waste.

2 (6) to the extent practicable, ensure that the rules adopted under subsection (5) establish objective
3 and quantifiable criteria for various parameters. These criteria must, to the extent practicable, constitute
4 guidelines for granting or denying applications for authorization to degrade high-quality waters under the
5 policy established in 75-5-303(2) and (3).

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13 **NEW SECTION. Section 3. Retroactive applicability.** [This act] applies retroactively, within the
14 meaning of 1-2-109, to April 4, 1995.
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16 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.
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APPROVED BY COM ON
NATURAL RESOURCES

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beneficial uses, creating an appropriate classification for streams that, due to sporadic flow, do not support
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SENATE BILLS AND RESOLUTIONS

SB 1 INTRODUCED BY GROSFIELD, ET AL. *LC0489 DRAFTER: EVERTS*

CLARIFY NITRATE WATER QUALITY MEASUREMENTS

11/26	INTRODUCED		
12/27	REFERRED TO NATURAL RESOURCES		
1/06	FIRST READING		
1/08	HEARING		
1/14	COMMITTEE REPORT—BILL PASSED		
1/15	2ND READING PASSED	39	9
1/16	3RD READING PASSED	37	12
	TRANSMITTED TO HOUSE		
1/17	FIRST READING		
1/17	REFERRED TO NATURAL RESOURCES		
2/03	HEARING		
2/11	COMMITTEE REPORT—BILL CONCURRED		
2/22	2ND READING CONCURRED	68	31
2/26	3RD READING CONCURRED	63	37
	RETURNED TO SENATE		
3/06	SIGNED BY PRESIDENT		
3/06	SIGNED BY SPEAKER		
3/10	TRANSMITTED TO GOVERNOR		
3/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 40		
	EFFECTIVE DATE: 03/12/97		

SB 2 INTRODUCED BY HOLDEN *LC0013 DRAFTER: PETESCH*

REVISE, CLARIFY, AND CONSOLIDATE THE LAWS GOVERNING WORK PROGRAMS FOR INMATES

12/16	INTRODUCED		
12/17	FISCAL NOTE REQUESTED		
12/27	REFERRED TO JUDICIARY		
1/06	FIRST READING		
1/07	HEARING		
1/10	FISCAL NOTE RECEIVED		
1/11	FISCAL NOTE PRINTED		
1/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/16	2ND READING PASSED	32	18
1/17	REVISED FISCAL NOTE REQUESTED		
1/17	3RD READING PASSED	36	13
	TRANSMITTED TO HOUSE		
1/18	FIRST READING		
1/18	REFERRED TO CORRECTIONS SELECT COMMITTEE		
1/23	REVISED FISCAL NOTE RECEIVED		
1/23	REVISED FISCAL NOTE PRINTED		
3/06	HEARING		
3/11	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/12	2ND READING CONCURRED AS AMENDED	68	29
3/14	3RD READING CONCURRED	66	30
	RETURNED TO SENATE WITH AMENDMENTS		
3/15	REFERRED TO FINANCE & CLAIMS TO CONSIDER HOUSE AMENDMENTS		

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on January 8, 1997, at 1:00 in Room 405.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. William S. Crismore, Vice Chairman (R)
Sen. Vivian M. Brooke (D)
Sen. Mack Cole (R)
Sen. Thomas F. Keating (R)
Sen. Dale Mahlum (R)
Sen. Bea McCarthy (D)
Sen. Ken Miller (R)
Sen. Mike Taylor (R)
Sen. Fred R. Van Valkenburg (D)

Members Excused: None

Members Absent: None

Staff Present: Larry Mitchell, Legislative Services Division
Gayle Hayley, Committee Secretary

Committee Business Summary:

Hearing & Date Posted: SB 1; Posted January 2, 1997
Executive Action: None

Introductory Meeting and Procedures Discussion:

CHAIRMAN LORENTS GROSFIELD began the hearing with an introduction of committee members, the legislative staff, **Larry Mitchell**, and committee secretary, **Gayle Hayley**. Procedures, rules, coffee detail, were discussed. It was stated that all meetings will be open, Executive Action will generally not be on the same day as the hearing, controversial bills Executive Action will be posted in advance if possible, voting order will vary, the committee will accommodate questions from the public, especially those from out of town, motions do not need seconds, and amendment ideas will be given to **Larry Mitchell**. **Mr. Mitchell** handed out a two page writeup explaining his duties and biography. **SEN. MACK COLE** was appointed to take care of the coffee detail. Tentative absentee voting procedures were discussed. **SEN. TOM KEATING** recommended that unless present, a member may not vote on an amendment and regarding the bill, suggested allowing the vote to be open for 24 hours. It was agreed to allow a signed vote on

either a properly drafted amendment or on the bill itself and if a person is not here, leave the avote on the bill open for 24 hours, at the discretion of the Chairman.

CHAIRMAN GROSFIELD turned the meeting over to **VICE CHAIRMAN WILLIAM CRISMORE** in order to present SB 1.

HEARING ON SB 1

Sponsor: **SEN. LORENTS GROSFIELD, SD 13, Big Timber.**

Proponents: **John Shontz, Montana Association of Realtors**
John Fitzpatrick, Pegasus Gold
Dennis Iverson, Western Environmental Trade Assn.
Michael Murphy, Montana Water Resources Association
John North, Department of Environmental Quality
Larry Brown, Agriculture Preservation Association

Opponents: **Ted Lange, Northern Plains Resource Council**
Patrick Judge, Montana Environmental Information Center
Tara Mele, Mont PIRG
Jim Richard, Montana Wildlife Federation
Janet Ellis, Montana Audubon
Joan Miles, Lewis and Clark County Health Dept.

Opening Statement by Sponsor

SEN. LORENTS GROSFIELD, SD 13, Big Timber, said SB 1 is an act clarifying nitrate water quality measurements. In SB 331, from last legislative session, the word "nitrate" was used as a common language meaning versus the technical meaning, which is quite different. SB 1 is a simple bill basically to codify the code commissioner's clarification comments.

{Tape: 1; Side: A; Approx. Time Count: 1:20; Comments: .}

Proponents' Testimony:

John Shontz, Montana Association of Realtors, stated his support of SB 1 and the position of the Code Commissioner.

John Fitzpatrick, Pegasus Gold Corp., (EXHIBIT 1) presented a handout entitled Nitrate and Nitrite in Drinking Water by the National Research Council. He stated that Montana water quality significance levels are lower than the federal drinking water standard of the EPA, which is 10 mg/L. **Mr. Fitzpatrick** summarized his testimony by saying there is very low potential for health risks regarding nitrates and is of support of SB 1. He believes this bill is a great benefit to people having septic tanks and to sewage treatment plants.

Dennis Iverson, Western Environmental Trade Association (WETA), encouraged the Committee's support of SB 1.

Mike Murphy, Montana Water Resources Association, stated SB 1 is a bill just of clarification and is supportive of the bill.

John North, Chief Legal Counsel, Dept. of Environmental Quality, also is in support of SB 1. He stated that the bill clarifies what the legislature intended to do the last time in SB 331 and recommends a do pass to the Committee.

Larry Brown, Agriculture Preservation Association, Northern Montana Oil and Gas Association, is in full support of SB 1.

{Tape: 1; Side: A; Approx. Time Count: 1:30; Comments: .}

Opponents' Testimony:

Ted Lange, Northern Plains Resource Council (NPRC), expressed strong opposition to SB 1. The bill poses serious health threats to the public in general. (EXHIBIT 2). He noted a letter from the Missoula Health Dept. concerning the federal standard of 10mg/L and the detrimental effects. (EXHIBIT 3). He concluded that these standards are not reasonable and there is a severe weakening of public health protection. He also handed out a letter from Don Spivey (EXHIBIT 4). **Mr. Lange** urged the committee to vote no on SB 1 and that the legislature should not be setting standards as such.

Patrick Judge, Montana Environmental Information Center, opposed SB 1 because of the weakening of the Montana standard by a factor of 4.4, which would bring the new standard to a level of 22mg/L and 33mg/L, thus exceeding the federal standard. He continued to say that nitrates do accumulate in the environment and we should measure as "whole nitrate" meaning measure nitrate as nitrate, not just one component, i.e., nitrogen. **Mr. Judge** stated that there are increasing levels of nitrates occurring in Montana and one reason is subdivisions. In five to ten years the drinking water may not be safe to drink, due to the nitrate level.

Tara Mele, Montana Public Interest Research Group (Mont PIRG) opposed SB 1 for reasons already stated.

Janet Ellis, Montana Audubon, wished to add one additional point that no subdivision has been declared significant under the non-degradation law.

Jim Richard, Montana Wildlife Federation, wanted to emphasize that rural subdivisions and nitrates are of major concern for the health of our wildlife populations.

Joan Miles, Lewis and Clark Health Department, opposes this bill because of the result of increased nitrate levels allowable.

Health risks should be considered and she urged Committee to realize implications of this bill.

{Tape: 1; Side: B; Approx. Time Count: 1:45; Comments: .}

Questions From Committee Members and Responses:

SEN. KEN MILLER, addresses Ms. Joan Miles, Lewis and Clark Health Dept. about how would voting no on SB 1 change anything concerning levels. Ms. Miles replied that the committee should look at appropriate levels now and consider what would be an appropriate standard. SEN. MILLER responded that the intent of the bill SB 1 is not to change anything, levels or anything else. Ms. Miles felt by voting yes to the bill, just to prevent a lawsuit, was not justifiable.

SEN. VIVIAN BROOKE, asked Abe Horpested, Dept. of Environmental Quality, what the intent of SB 331 was and to give some further information about nitrates as nitrogen. Mr. Horpestead replied that SB 331 last session was drafted to relax the standard, to make the threshold less restrictive. The EPA standard is 10mg/L and in the fine print the standards are measured as nitrogen.

SEN. FRED VAN VALKENBURG, asked Mr. Greg Petesch to clarify his intent regarding why he as the Code Commissioner decided, after the legislature adjourned, to put in parentheses the words "as nitrogen" after nitrate. Is the clarification of the legislative intent the correct assumption? Also, what is the authority level of the Code Commissioner? Mr. Petesch replied that it was necessary step in order to codify what the legislature had done. The issue was prompted by the Dept. of Environmental Sciences' request to review existing rules. The Code Commissioner does have the authority to insert editorial comment as appropriate, and has done so several times in the past.

SEN. VAN VALKENBURG asked SEN GROSFIELD about the retroactive applicability.

SEN. GROSFIELD justifies retroactive applicability and why it is important. He also states again that SB 1 does not change the law, it clarifies it. It is a matter of just clarifying the glitch in the language from the last session so the bill will stand up.

SEN. VAN VALKENBURG asked Mr. Langee about the letter from the Missoula Health Dept.

SEN. BROOKE asked Margaret Morgan, MT Association of Realtors, about the association's strategy concerning the preferred level of nitrate recommended for SB 331. Did the association want lower levels of nitrate standards than that of outcome of SB331? Does SB1 then, by defining nitrate as nitrogen, get to the level you were hoping to get? Ms. Morgan answered, the term nitrate as

nitrogen does accomplish much of what we originally wanted in our original proposals.

SEN. MILLER asks **Mr. Lange**, what his understanding was last session when we were talking nitrate levels in SB 331, nitrate as nitrogen or as nitrate whole? **Mr. Lange** responded that it was his understanding the measurement was the same scale as EPA was using.

SEN. VAN VALKENBURG, asked **Patrick Judge** about the pamphlet **Mr Fitzpatrick** handed out from the National Research Council. Does your organization endorse this organization, or is this a one side of the issue document? **Mr. Judge** said he was not familiar with the organization and he did make a mistake regarding the federal standard of nitrate measurements.

SEN. DALE MAHLUM, asked **Mr. Judge** if I spread nitrogen on my pastures at home, is there a problem? **Mr. Judge** said I'm not a chemist, I cannot answer that.

{Tape: 1; Side: B; Approx. Time Count: 2:10; Comments: .}

Closing by Sponsor:

SEN. GROSFIELD wanted to make several points clear. Firstly, this bill does not make any changes, it reaffirms what was done in the last legislative session, and it clarifies what was done. Secondly, this bill does not go beyond the federal standard of 10mg/L as stated by several opponents. The confusion arises from the 4.4 factor. One must divide, rather than multiply, the 5.0 and the 7.5 by 4.4 which is 1.14 and 1.70 respectively, versus 22 and 33. If you are talking about Nitrate period, that is 4.4 times less than nitrate as nitrogen. If we kill this bill and the court held that what we really meant was nitrate period, then the standard would be divided, not multiplied, and the result is 1.14, which is substantially less than 2.5, the previous standard before the last session.

The Blue Baby Syndrome is definitely a serious health threat that is directly related to nitrate. The federal standard has been set at 10.0 and that includes a safety factor which is built in. The EPA based this standard on the Blue Baby Syndrome.

The section of law that allows the Code Commissioner to make such editorial comments is in Section 1-11-204 (2) of the MCA, Duties of Code Commissioner. It states the Commissioner shall cause to be prepared for publication with the MCA the following material:

(c) Editorial notes, cross-references, and other matter the Commissioner considers desirable or advantageous. **SEN. GROSFIELD** read a few sentences from the Code Commissioner's submittal to the court to the effect that last legislative session, everyone, proponents and opponents alike, understood that the meaning of the word "nitrate" was as this bill clarifies it.

SEN. GROSFIELD conveyed in closing, this is a housekeeping bill clarifying what has already been done, clarifying the policy that has already been set, the policy that the department has been operating under.

Committee Business:

At this point in the hearing **CHAIRMAN GROSFIELD** resumes the chair.

Cell phone comments were discussed. **SEN. MIKE TAYLOR** commented that cell phones are not appropriate, and are distracting, and we should not have them in the hearings. **SEN. BROOKE** thought in times of urgency the phones are necessary. It was decided to allow phones only in cases of urgency, and under the discretion of the chairman.

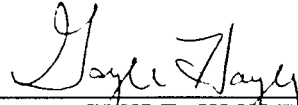
CHAIRMAN GROSFIELD stated Executive Action will be taken on SB 1 on Monday, January 13, 1997.

ADJOURNMENT

Adjournment: 2:17 p.m.



SEN. LORENTS GROSFIELD, Chairman



GAYLE HAYLEY, Secretary

LG/GH

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on January 13, 1997, at 1:00 P.M., in Room 405

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. William S. Crismore, Vice Chairman (R)
Sen. Vivian M. Brooke (D)
Sen. Mack Cole (R)
Sen. Thomas F. Keating (R)
Sen. Dale Mahlum (R)
Sen. Bea McCarthy (D)
Sen. Ken Miller (R)
Sen. Mike Taylor (R)
Sen. Fred R. Van Valkenburg (D)

Members Excused: None

Members Absent: None

Staff Present: Larry Mitchell, Legislative Services Division
Gayle Hayley, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed for SB 50, SB59 and SB72 are verbatim.

Committee Business Summary:

Hearings & Dates Posted: SB50, SB59, SB72; January 8, 1997
Executive Action: Committee Rules and SB1

HEARING ON SB50

Sponsor: SENATOR TOM KEATING, SD 5, Billings

Proponents: Larry Brown, Northern Montana Oil & Gas Association
Gail Abercrombie, Executive Director, Montana
Petroleum Association

Opponents: None

Opening Statement by Sponsor: SENATOR TOM KEATING, SD 5, Billings. He requested favorable consideration of SB 50. He passed around sample forms of contracts dealing with oil and gas leases. This is the contract between grantor and grantee or

CHAIRMAN GROSFIELD: Most of this came from a format that was in a Committee Chairman book for Legislative committees. We could strike that and put may in #4.

SENATOR MILLER: On the executive action is there a reason particularly that we have to wait till after all the scheduled bills are heard? In other words, I can see some exceptions. I just wrote on the end of mine "or at the discretion of the Chair," if you wanted to make an exception for something.

CHAIRMAN GROSFIELD: That's fine with me. Just put a period after the word later.

SENATOR VAN VALKENBURG: As a general rule, executive action will not be taken the same day as the hearing, but at the discretion of the Chair, may be heard that same day.

CHAIRMAN GROSFIELD: There is one thing under general item six that just came up this morning at the Senate Rules Committee. Apparently, there have been some people who have requested to submit absentee video testimony to committee hearings. The Senate Rules Committee decided against allowing that for three reasons. One is we don't have an abundance of that kind of equipment for every committee room to be ready for that. Secondly, there is no opportunity for questioning or rebuttal. The third thing is that you may have a video that you don't have any idea what's on it. You would have to preview it. Senate Rules Committee decided they just didn't want to deal with it. Next meeting the committee rules will be in some kind of final form so we can adopt it.

{Tape: 1; Side: B; Approx. Time Count: 2:05; Comments: .}

EXECUTIVE ACTION ON SB1

Motion: SENATOR KEN MILLER MOVES A DO PASS RECOMMENDATION.

Discussion: SENATOR VIVIAN BROOKE: It seems strange that the legislature can go back and change language even though the scientists and technologists probably had it in mind "nitrogen as nitrogen." It is in fact the industry norm and in order to measure nitrates to lower the standards, which was the clear intent of SB331, you had to measure it as nitrogen. I've no question at all that was the intent of scientists and technologists, but for lay people across the board, who don't have that scientific background, there was not a clear understanding that language was needed. To go back and change the language simply because we're in a lawsuit seems pretty arrogant or presumptuous, so I'm going to have to vote against this motion.

CHAIRMAN GROSFIELD: **SENATOR BROOKE**, all the technical people that we had before us just used to word nitrate just like we all did. We all understood what we were talking about. Even in the hearing the other day direct questions were asked of people's understanding of the term in the last session. There was nobody that raised the issue and this is what the code commissioner said. "Nobody raised the issue until the session was over and everyone had gone home." Again, I don't think anybody had the understanding that it was anything other than what it is. Now, the code commissioner has to put in the words to clarify. I don't think it took a lawsuit to prompt him to have this bill. I think we all had a fairly clear hearing and everybody understood we aren't really making any changes here.

SENATOR FRED VAN VALKENBURG: I don't really have any problem with what you're proposing to do on the bill because I think that you're essentially trying to write the law as it was generally intended to be written in 1995. Although I may disagree with what the substantive provisions are, I think that there's a certain responsibility to try and get the law written correctly. What I do have some problem with, and I probably should have asked **Larry Mitchell** to prepare an amendment, is this retroactive applicability provision. I think that it's generally not a good idea to try and make laws retroactive. I think that there are very rare circumstances where that is appropriate. I think we don't really need a retroactive provision in here, at least I didn't hear any reason that we had to have one. If the Chair would permit, I like to offer a verbal amendment to strike section 3 of the bill.

CHAIRMAN GROSFIELD: I'll permit that. That's a straightforward amendment and I don't think we need a drafted edited amendment to take care of that.

Motion: **SENATOR VAN VALKENBURG:** MOVE THAT SECTION 3 BE STRICKEN FROM BILL.

Discussion:

CHAIRMAN GROSFIELD: I guess as sponsor of the bill I would resist the amendment. Perhaps I should ask **Mr. North** to comment on this, but it would seem me that if we don't have that and this bill gets signed by the Governor, say on April 3, 1997, that we have a two year opportunity window there for litigation. I would presume this retroactive applicability provision is trying to close off that potentiality. It seems to me that we're just asking for a lot of lawsuits with this proposed amendment.

SENATOR KEATING: I believe in the testimony it was stated that there were some subdivisions that were permitted within the last two years that might be jeopardized if the retroactive date is not passed. They would have to resubmit those subdivisions for permits and that would cost a lot of money to a lot of people.

CHAIRMAN GROSFIELD: I would like to ask **Mr. North**, Chief Legal Counsel for Department of Environmental Quality, to comment on this retroactive applicability provision.

Mr. North: The general estimate I have from the subdivision people in our department is that the department has about 1500 applications with an average of 4 lots per application. We would be talking of about April 1995 to October 1996, 2 years 4 months. You can figure that's about 3500 applications and 6,000 to 12,000 lots that would be affected during this interim period.

CHAIRMAN GROSFIELD: Are you saying, **Mr. North**, that in just those two years there were 12,000 lots subdivided across the state of Montana? **Mr. North:** Yes, that's my understanding.

CHAIRMAN GROSFIELD: That's a different issue but that's a lot of lots. When you say "would be jeopardized" what do you mean?

Mr. North: In the lawsuit not only have the plaintiffs asked for declaratory judgment that nitrate means NO3 but they have been asked that all approvals under the interpretation that nitrate as nitrogen be invalidated. The applications would have to be re-reviewed by the department.

CHAIRMAN GROSFIELD: Thank you. Further discussion on the amendment?

SENATOR VAN VALKENBURG, would you like to close on your amendment?

SENATOR VAN VALKENBURG: I would. I understand the statistics that Mr. North has cited, but he hasn't said that just because there has to be a re-review of these matters that these subdivisions will not be approved. I think that the important issue here is that the Legislature has a responsibility to write the laws correctly. One should have to live with those mistakes, learn from them, and move on. You can't go back and with 20/20 hindsight and fix up what you didn't do correctly in the first place.

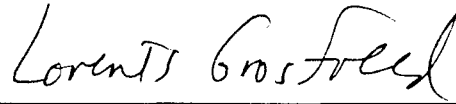
Vote: MOTION TO ADOPT SEN. VAN VALKENBURG'S AMENDMENT TO SB1 FAILED 7 TO 3.

SENATORS BROOKE, VAN VALKENBURG and MCCARTHY having voted aye and the remainder of the committee having voted no.

Vote: MOTION CARRIED. SB1 PASSED 9 TO 1. SEN. BROOKE voting no.

ADJOURNMENT

Adjournment: 2:23 P.M.



SEN. LORENTS GROSFIELD, Chairman



GAYLE HAYLEY, Secretary

LG\GH

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairman Dick Knox, on February 3, 1997, at
3:00 p.m., in Room 437

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Hal Harper, Vice Chairman (Minority) (D)
Rep. Haley Beaudry (R)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Doug Mood (R)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney
Rep. Trudi Schmidt (D)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: none

Members Absent: none

Staff Present: Kathleen Williams, Legislative Services
Stephanie Braun, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 383, SB 1, SB 72, SB 131
Executive Action: HB 225 DO PASS as Amended (18-0), HB 31 DO PASS as Amended (15-3), HB 283 DO PASS (16-2), HB 285 DO PASS as Amended (15-3), HB 219 Tabled (18-0)

HEARING ON HB 383

Opening Statement by Sponsor: Rep. Dick Knox, HD #93 opened
{Tape: 1; Side: a; Approx. Time Count: 2.4; Comments: none.}

Proponents' Testimony:

John Arrigo, Administrator of Enforcement, Department of
Environmental Quality
{Tape: 1; Side: a; Approx. Time Count: 4.7; Comments: none.}

Angela Janacaro, MT Mining Association
{Tape: 1; Side: a; Approx. Time Count: 7.6; Comments: none.}

Opponents' Testimony:

Jim Jensen, Executive Director of Montana Environmental
Information Center
{Tape: 1; Side: a; Approx. Time Count: 8.7; Comments: none.}

Exhibit # 5 submitted by Debbie Smith of the MT Chapter of the
Sierra Club (written testimony only)

Questions From Committee Members and Responses:

{Tape: 1; Side: a; Approx. Time Count: 13.7; Comments: none.}

{Tape: 1; Side: a; Approx. Time Count: 43.9; Comments: flipped
tape.}

{Tape: 1; Side: b; Approx. Time Count: 0.1; Comments: none.}

Closing by Sponsor: Rep. Knox, closed
{Tape: 1; Side: b; Approx. Time Count: 1.5; Comments: none.}

HEARING ON SB 1

Opening Statement by Sponsor:

Sen. Lorents Grosfield, SD #13 opened
{Tape: 1; Side: b; Approx. Time Count: 4.4; Comments: revise so
that Bill states nitrates as nitrogen.}

Proponents' Testimony:

John North, attorney, Department of Environmental Quality
submitted Exhibit #1
{Tape: 1; Side: b; Approx. Time Count: 7.8; Comments: Exhibit
#1.}

Larry Brown, MT Dairy Association, NMOGA, Agricultural
Preservation Association
{Tape: 1; Side: b; Approx. Time Count: 13.3; Comments: none.}

Margaret Morgan, MT Association of Realtors

{Tape: 1; Side: b; Approx. Time Count: 13.7; Comments: none.}

Mike Murphy, Montana Water Resource Association (MWRA)

{Tape: 1; Side: b; Approx. Time Count: 14.3; Comments: none.}

Steve Pilcher, Western Environmental Trade Association

{Tape: 1; Side: b; Approx. Time Count: 14.7; Comments: none.}

Opponents' Testimony:

Ted Lange, Northern Plains Resource Council

{Tape: 1; Side: b; Approx. Time Count: 16.2; Comments: none.}

Exhibit #2 from Missoula Health Department

Patrick Judge, Montana Environmental Information Center

{Tape: 1; Side: b; Approx. Time Count: 22.3; Comments: none.}

Brett Brownscombe, Montana Wildlife Federation

{Tape: 1; Side: b; Approx. Time Count: 27.6; Comments: none.}

Exhibit #4, submitted by Debbie Smith, MT Chapter of the Sierra Club (written testimony only)

Questions From Committee Members and Responses:

{Tape: 1; Side: b; Approx. Time Count: 30.2; Comments: none.}

{Tape: 2; Side: a; Approx. Time Count: 0.1; Comments: none.}

Closing by Sponsor: Sen. Grosfield, SD #13 closed

{Tape: 2; Side: a; Approx. Time Count: 12.5; Comments: none.}

HEARING ON SB 72

Opening Statement by Sponsor: Sen. Ken Mesaros, SD #25

{Tape: 2; Side: a; Approx. Time Count: 19.0; Comments: none.}

Proponents' Testimony:

Allan Cox, Director of Resource Information Center-State Library

{Tape: 2; Side: a; Approx. Time Count: 21.2; Comments: none.}

Opponents' Testimony: none

Questions From Committee Members and Responses: none

{Tape: 2; Side: a; Approx. Time Count: 22.8; Comments: none.}

Closing by Sponsor: Sen. Mesaros, SD #25 closes

{Tape: 2; Side: a; Approx. Time Count: 22.9; Comments: none.}

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairman Dick Knox, on February 7, 1997, at
3:06 p.m., in Room 437

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Hal Harper, Vice Chairman (Minority) (D)
Rep. Haley Beaudry (R)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Doug Mood (R)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney
Rep. Trudi Schmidt (D)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: Rep. Ellingson

Members Absent: none

Staff Present: Kathleen Williams, Legislative Services
Stephanie Braun, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 408, HB 414
Executive Action: HB 383 DO PASS (18-0), SB 1 DO
CONCUR (12-6), SB 72 DO CONCUR
(18-0), SB 131 DO CONCUR (18-
0)

HEARING ON HB 414

Opening Statement by Sponsor: Rep. Dan McGee, HD #21 opened
Exhibit #2 {Tape: 1; Side: a; Approx. Time Count: 3.5.; Exhibit2}

Dennis Lay, MARLS

{Tape: 2; Side: a; Approx. Time Count: 20.0; Comments: none.}

Larry Marshall, MARLS

{Tape: 2; Side: a; Approx. Time Count: 21.6; Comments: none.}

Steven Ries, land surveyor

{Tape: 2; Side: a; Approx. Time Count: 24.0; Comments: none.}

Opponents' Testimony:

David Plueddemann, Director of Environmental Health Services, Gallatin County submitted only written testimony, marked as Exhibit #1

Jan Sensibaugh, Department of Environmental Quality submitted Exhibit #4

{Tape: 2; Side: a; Approx. Time Count: 24.7; Comments: none.}

Jim Richard, MT Wildlife Federation

{Tape: 2; Side: a; Approx. Time Count: 27.1; Comments: none.}

Anne Hedges, Montana Environmental Information Center

{Tape: 2; Side: a; Approx. Time Count: 29.3; Comments: none.}

Ted Lange, Northern Plains Resource Council

{Tape: 2; Side: a; Approx. Time Count: 30.3; Comments: none.}

Exhibit #5 submitted by Chris Cerquone (only written testimony)

David Vittloff, MT Audubon

{Tape: 2; Side: a; Approx. Time Count: 30.9; Comments: none.}

Questions From Committee Members and Responses:

{Tape: 1; Side: a; Approx. Time Count: 30.9; Comments: none.}

Closing by Sponsor: Rep. Trexler closed

{Tape: 1; Side: a; Approx. Time Count: 32.1; Comments: none.}

EXECUTIVE ACTION ON SB 1

Motion: by Rep. Story, DO CONCUR

{Tape: 1; Side: a; Approx. Time Count: 37.3; Comments: none.}

Exhibit #3 (supplied by Patrick Judge of MEIC per the request of the Committee) was handed out

Amendments: none

Discussion: Rep. Harper began the discussion

{Tape: 2; Side: a; Approx. Time Count: 37.5; Comments: none.}

Motion/Vote: Question called for by Rep. Harper, motion carried (12-6) SB 1 to be concurred in (Rep. Harper, Rep. Ellingson, Rep. Raney, Rep. Schmidt, Rep. Swanson, Rep. Tuss voted "no")

Rep. Knox will carry SB 1 on the House floor

EXECUTIVE ACTION ON SB 72

Motion: by Rep. Orr, DO CONCUR

{Tape: 2; Side: a; Approx. Time Count: 41.5; Comments: none.}

Amendments: none

Discussion: none

Motion/Vote: Question was called, motion carries,
DO CONCUR (18-0)

EXECUTIVE ACTION ON SB 131

Motion: by Rep. Stovall, DO CONCUR

{Tape: 2; Side: a; Approx. Time Count: 42.2; Comments: none.}

Amendments: none

Discussion: none

Motion/Vote: Question was called; voice vote; motion carries, DO
CONCUR (18-0)

EXECUTIVE ACTION ON HB 383

Motion: by Rep. Knox; DO PASS

Amendments: none

Discussion: Rep. Tuss to Rep. Knox followed by clarification of
procedure and interpretation by John Arrigo of DEQ

{Tape: 2; Side: a; Approx. Time Count: 43.5; Comments: none.}

*{Tape: 2; Side: a; Approx. Time Count: end; Comments: flipped
tape at the very end.}*

Rep. Raney voiced his concern in agreement with Rep. Tuss' concern that the remediation as it is written in sub section 2 line 26 and line 29, their interpretation is that it appears as if the violators ability to pay determines the penalty. Rep. Raney's other concern is leaving discretion up to the Department.
{Tape: 2; Side: b; Approx. Time Count: 3.2; Comments: none.}

Rep. Harper understands the hesitation to vote for a Bill that is so open-ended, but he takes the Department's word that they are stepping up to enforce and with equal treatment.

{Tape: 2; Side: b; Approx. Time Count: 4.8; Comments: none.}